

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FUNICULAR FUNDS, LP,

Plaintiff,

-v-

PIONEER MERGER CORP., et al.,

Defendants.

22-cv-10986 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.:

In this class action suit before the Court, Funicular Funds, LP ("Funicular") argues that it and other former class A shareholders of defendant Pioneer Merger Corp. ("Pioneer") are entitled by contract to the pro rata distribution of a termination fee that Pioneer received from a company with whom a planned business combination went bust.¹ Discovery in the suit has closed, cross-motions for summary judgment have been fully briefed, and a final pre-trial conference is set for December 19, 2023. Although the termination fee remains in an account and can still be distributed to former shareholders, the class A shares have been redeemed and Pioneer is in the process of winding up in the Cayman Islands, where, after proceedings in this Court were well underway, a court appointed two Joint Official Liquidators.

¹ On January 20, 2023, Funicular filed an Amended Complaint alleging four causes of action against Pioneer and its managing insiders: breach of contract, declaratory judgment of the breach of contract, breach of fiduciary duty, and unjust enrichment. See ECF No. 9. On May 1, 2023, the Court dismissed without prejudice the claims for breach of fiduciary duty and unjust enrichment. See ECF No. 22. The Court certified a class for the remaining claims on November 1, 2023. See ECF No. 43.

On October 19, 2023, Pioneer's Joint Official Liquidators filed a petition in this District under Chapter 15 of the Bankruptcy Code for recognition of the Cayman Islands winding-up proceeding, which has been assigned to Judge David S. Jones. See No. 23-bk-11663-dsj, ECF No. 1. Funicular objects to the Chapter 15 petition and argues that the bankruptcy court should not stay this class action. See No. 23-bk-11663-dsj, ECF No. 15. To avoid overlapping judicial resources and to ensure an efficient resolution of the claims at issue before the Court, the Court hereby withdraws in part the reference of No. 23-bk-11663-dsj to Judge Jones, but only with respect to matters bearing on the outcome of this case.

SO ORDERED.

New York, NY
December 7, 2023


JED S. RAKOFF, U.S.D.J.